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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,400

03/02/2005

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59643.00578

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32294

7590

11/10/2008

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EXAMINER

HUYNH, NAM TRUNG

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

11/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/526,400</p>	<p><b>Applicant(s)</b> POYKKO ET AL.</p>	
	<p><b>Examiner</b> NAM HUYNH</p>	<p><b>Art Unit</b> 2617</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because: Applicant submits that Kingdon does not teach or suggest the limitation recited in claims 1 and 26-29 recited "determining a virtual base station estimate...and...providing a second location estimate using one of said different location methods based on the first location estimate and the virtual base station estimate, said second location estimate being a location of a mobile device". The Examiner respectfully disagrees and asserts that these limitations are taught by Kingdon in column 6 and figure 1.

The invention of Kingdon is intended to locate a mobile station using two base stations alternatively from conventional triangulation techniques that require measurements from three base stations (column 3, lines 27-44). Figure 1 illustrates a system comprising two base stations (items 110, 120) including sectors (items 130, 125...). The two base stations attempt to locate the mobile station by making timing advance (TA) measurements. This aspect of Kingdon renders a first location estimate because the base stations estimate the position of the mobile station and the TA measurements render the collected information because they are measured or collected in order to make the location estimate.

Because a third base station is not available to take measurements, Kingdon teaches that it is uncertain whether the mobile station is located at point A or at point B. In order to cure this deficiency, Kingdon teaches that a call setup is performed with the mobile station in order to extract sector information. This information is regarded by the Examiner as the "virtual base station estimate" because of the broad scope of the claim language. The term "virtual base station" is interpreted by the Examiner to mean a base station that is simulated or does not exist. Therefore based on the fact that a sector is not a base station and that the sector information replaces or simulates a third base station that does not exist, this information can be reasonably interpreted as a "virtual base station estimate".

Kingdon further teaches that the mobile positioning center uses the TA measurements taken by the two base stations and the cell sector information to determine whether the mobile station is located at point A or at point B. This determination of the actual position of the mobile device using the TA measurements and the cell sector information renders the "second location estimate" because this estimate is the actual position of the mobile device and is made using a "first location estimate" (TA measurements) and a "virtual base station estimate (cell sector information)". Therefore for at least the reasons stated above, the rejection applied to claims 1 and 26-29 have been maintained.